

COLORADO MEDICAL BOARD

FULL BOARD OPEN MINUTES

November 18, 2010

9:05 a.m.

A Full Board meeting of the Colorado Medical Board was held Thursday, November 18, 2010, at 1560 Broadway, Conference Room 1250C, Denver, Colorado at 9:05 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis (departed at 2:27 p.m.), Mr. Berson, Dr. Butler, Dr. Calonge (departed at 1:52 p.m. and returned at 2:42 p.m.), Dr. Groce, Ms. Hewitt, Mr. Jennings (departed at 2:07 p.m.), Mr. Kirkpatrick, Dr. Matthews (departed at 12:07 p.m.), Dr. Melendez, Dr. Overholt, Dr. Phelps (departed at 2:23 p.m.), Dr. Salvatore, Mr. Schoenmakers (departed at 1:00 p.m.), Dr. Utt and Dr. Watts.

The meeting was conducted by Dr. Allen-Davis and Dr. Watts

Also in attendance for all or part of the meeting were Rose McCool, Director, Division of Registrations, Richard Morales, Healthcare Section Director; Jason Sunstrom, System Support Director; Jacqueline Arcelin, Healthcare Professions Profile Manager; Marschall S. Smith, Program Director, Lisa Jackson, Enforcement Program Manager, Monica Brion, Enforcement Case Manager; Maria Soto, Program Assistant; and Eric Maxfield, First Assistant Attorney General.

MINUTES

A motion was made, seconded, and carried to approve the open minutes of the August 19, 2010 full board meeting as presented.

REPORTS

President's Report

- Dr. Allen-Davis asked Dr. Matthews to report on the new Licensing Panel.
- Dr. Allen-Davis expressed her appreciation for the service and dedication of the Board members, especially in light of the many transitions which have taken place during the past 12 months among both staff and Board members
- Dr. Allen-Davis expressed her support for the up-coming Board retreat.

Section Director's Report

Richard Morales provided the Board an update regarding the Healthcare Section since he became Director.

Program Director's Report

- Marschall S. Smith introduced new Board member, Shirley Uhl Salvatore, M.D.
- Mr. Smith also introduced new Board Assistant Attorney General, Eric Maxfield.
- Mr. Smith talked about the upcoming Board retreat scheduled for January 7 and 8, 2011.

GENERAL BUSINESS

EMTS-MDC Recommendations for Rule 500 Waivers

Arthur Kanowitz, M.D., Medical Director, Emergency Medical & Trauma Services (EMTS) Section, and Randy Kuykendall, Head of the Emergency Medical & Trauma Services at the Colorado Department of Public Health and Environment (CDPHE) were present at the meeting to discuss Medical Direction Committee (MDC) Rule 500 Waiver recommendations. Due to changes in the Medical Practice Act, this was the last meeting where the Board would review the Rule 500 Waivers, the responsibility would transfer to CDPHE effective January 1, 2011. The Board expressed its appreciation to Dr. Kanowitz and Mr. Kuykendall for their dedication and commitment to this process and its success.

After discussion, motions were made, seconded and carried to adopt the EMTS-MDC recommendations for Rule 500 waiver requests. Specifically, separate motions were made, seconded, and carried to approve renewal of the following waivers: 10-33, 10-34, 10-36, 10-38, 10-39, 10-40, 10-41, 10-42, 10-43 10-44, 10-45, 10-46, 10-48, 10-49, 10-50, 10-51, 10-52, 10-53, and 10-54.

A motion was made, seconded and carried to approve waiver 10-47, with the condition and requirement that each case be monitored and results reported. Dr. Melendez, Dr. Overholt, and Mr. Kirkpatrick opposed the motion. Mr. Schoenmakers abstained from voting on the matter.

A motion was made, seconded and carried to table waiver: 10-37.

As a new business matter, Dr. Calonge proposed the development of an interagency agreement between EMTS, CDPHE and the Colorado Medical Board for annual review of the waivers to evaluate whether or not the change in the reviewing process of EMTS-MDC waivers is working. Staff were instructed and authorized to pursue this course of action.

CPHP Report, First Quarter, Report ending September 30, 2010

The Board reviewed the September 30, 2010 First Quarter Report.

A motion was made, seconded and carried to accept the report.

Presentation by the Healthcare Professions Profiling Program Team

Rose McCool, Division Director, Jason Sunstrom, System Support Director and Jacqueline Arcelin, Healthcare Professions Profile Manager gave a presentation regarding the development of this program.

Rulemaking Hearing to Modify/Amend/Revise/Repeal CMB Rules:

PUBLIC RULEMAKING HEARING

At 10:00 a.m. an announcement was made that, unless an objection was expressed, the rulemaking would start at 11:00 a.m. No objections were made.

A motion was made, seconded and carried to convene the public rulemaking hearing at 11:07 a.m. and the hearing closed at 11:12 a.m.

The purpose of the Hearing was to obtain public comment regarding proposed changes to Rule 800 and to repeal Rule 230. Rule 800 was being modified to conform with changes to the Medical Practice Act with regard to the Board's authority of emergency medical technicians as it related to Board Rule 500. Rule 230 was being repealed to be replaced with the Division of Registration Procedural Order Regarding Review of Initial Decisions. The Hearing was properly noticed under the provisions of the Administrative Procedure Act.

Dr. Allen-Davis presented an overview of the rules. A full opportunity was provided for submission of oral and written comments by the public. No written documents were offered or received in advance of or at the hearing. The Board also provided time to the public for comments. There were no public comments.

After due consideration of the information provided, a motion was made, seconded and carried to amend Rule 800.

After due consideration of the information provided, a motion was made, seconded and carried to repeal Rule 230.

Rule 400 - Request for Waiver of the Board Rule Regarding the Regulation of Physician Assistants

Joseph Douglas Yeakel, M.D.

The Board reviewed Dr. Yeakel's waiver request from Rule 400, Section 2 B 1, four Physician Assistant limit.

A motion was made, seconded and carried to approve Dr. Yeakel's request.

Member Reappointment of the Committee for Anticompetitive Conduct (CAC)

The Board reviewed a letter from Richard Morales, Healthcare Section Director requesting reappointment of Dr. Heppe to to the CAC for a second term.

A motion was made, seconded and carried to approve Dr. Heppe's reappointment to the CAC.

Presentation from Marjie Harbrecht, CEO of Health Team Works

Marjie Harbrecht, CEO of Health Team Works gave a presentation titled: Helping Practices Achieve Excellence.

Discussion regarding Licensure by Endorsement

Marschall S. Smith facilitated a discussion regarding licensure by endorsement. This was an informational session and no additional action was required.

Request for Increase Approval of the Peer Assistance Fee

The Board reviewed a memo from Marschall S. Smith, Program Director of the Colorado Medical Board requesting approval for a \$47.00 increase of the peer assistance fee effective May 2011. The Board also reviewed a chart provided by the Colorado Physician Health Program (CPHP) regarding utilization, growth and funding for the last 10 years. Sarah Early, Psy.D., Executive Director for CPHP was available during this discussion.

A motion was made seconded and carried to approve an increase of \$47.00 for the peer assistance fee to become effective at the 2011 renewal cycle. The motion carried by a vote of 9 in favor, 5 opposed, and 1 abstention. Ms. Hewitt, Mr. Kirkpatrick, Dr. Melendez, Dr. Overholt, and Dr. Watts opposed the motion. Mr. Schoenmakers abstained from voting on the matter.

Discussion and Review of Board Policies

After due consideration, a motion was made, seconded and carried to accept Board Policies 10-02, 10-11, 10-22, 40-07 and 40-08 as amended.

Division of Registrations Procedural Order Regarding Review of Initial Decision ("Procedural Order")

A motion was made, seconded, and carried to reopen discussion regarding the repeal of Board Rule 230 and replacing it with the Procedural Order.

The Board reviewed the Procedural Order. The Program Director discussed the purpose of the Procedural Order with the Board.

A motion was made, seconded and carried to adopt the Procedural Order.

A second motion was made, seconded and carried to delegate signature authority to the Program Director for all matters concerning Initial Decisions and provided instructions to the Program Director to comply with the requirements outlined in the Procedural Order.

Approaches to Practicing Monitoring

The Board reviewed a memo from Susan Miller, former Healthcare Section Director regarding Approaches to Practicing Monitoring. Marschall S. Smith, Program Director of the Colorado Medical Board facilitated a discussion.

A representative from the Center for Personalized Education for Physicians was also present for this discussion and presented to the Board.

A motion was made, seconded, and carried to develop a taskforce to review and develop approaches available to the Board and its Panels. The Program Director was instructed to bring together the taskforce as soon as practicable and that the members of the taskforce should be comprised of Dr. Allen-Davis, Mr. Berson, Dr. Butler, and Dr. Melendez.

Annual Hospital Reporting Surveys for 2008 and 2009

The Board reviewed two memos from Board staff regarding annual hospital reporting survey statistics for calendar years 2008 and 2009.

This was for the Board's information only and no additional action was required.

Executive Session

A motion was made, seconded and carried to enter into Executive Session at 2:30 p.m. for the purpose of conferring with counsel for the Board to receive legal advice on specific legal questions, pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II), specifically:

- Advice related to medical marijuana and the standard of care related to physicians.
- Status report of Attorney General Confidential Full Board cases.

It was determined, prior to discussion being initiated, that the recorder was not functioning correctly. A motion was re-made, seconded, and carried to enter into Executive Session at 2:31 p.m.

At 3:22 p.m., the Board's discussion in Executive Session was concluded and the Board returned to open session.

Office of Attorney General

The Office of Attorney General's Confidential Full Board Case Status Report was provided to the Board for review.

The report was for the Board's information and no action was required.

ITEMS OF INTEREST

OTHER ITEMS OF INTEREST

- The Board reviewed a Denver Post article – “Groups sue Colorado to halt decision on rural hospital anesthesia”. No action was required.
- The Board reviewed a CNN.com article – “Surgery mix-ups surprisingly common”. No action was required.
- The Board reviewed a Denverpost.com article – “Drug firms’ payments to doctors raise ethical concerns for many”. No action was required.
- The Board reviewed an original research document from CPEP from the Journal of Continuing Education in the Health Professions, titled: “Physicians Reentering Clinical Practice: Characteristics and Clinical Abilities”. No action was required.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:22 p.m.

Approved by: Jandel Allen-Davis, M.D.

Date: February 17, 2011